



General Assembly

Amendment

January Session, 2015

LCO No. 7648



Offered by:
SEN. COLEMAN, 2nd Dist.

To: Subst. Senate Bill No. **831**

File No. 701

Cal. No. 413

(As Amended)

***"AN ACT ELIMINATING THE MUNICIPAL EXEMPTION FROM THE
CONTRACT COMPLIANCE REQUIREMENTS IN STATE
CONTRACTS."***

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (c) of section 46a-56 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *October 1, 2015*):

6 (c) If the commission determines through its monitoring and
7 compliance procedures that a contractor or subcontractor is not
8 complying with antidiscrimination statutes or contract provisions
9 required under section 4a-60 or 4a-60a or [the provisions of] sections
10 46a-68c to 46a-68f, inclusive, the commission may issue a complaint
11 pursuant to subsection (c) of section 46a-82. Such complaint shall be
12 scheduled for a hearing before a [hearing officer or] human rights

13 referee appointed by the chief referee to act as a presiding officer. Such
14 hearing shall be held in accordance with chapter 54 and section 46a-84,
15 as amended by this act. If, after such hearing, the presiding officer
16 makes a finding of noncompliance with antidiscrimination statutes or
17 contract provisions required under section 4a-60 or 4a-60a or [the
18 provisions of] sections 46a-68c to 46a-68f, inclusive, the presiding
19 officer shall order such relief as is necessary to achieve full compliance
20 with any antidiscrimination statute and required contract provisions.
21 The presiding officer may: (1) Order the state to retain two per cent of
22 the total contract price per month on any existing contract with such
23 contractor that the state withheld pursuant to section 46a-68d and
24 transfer the funds to the State Treasurer for deposit in the special fund
25 described in subsection (e) of this section; (2) prohibit the contractor
26 from participation in any further contracts with state agencies until:
27 (A) The expiration of a period of two years from the date of the finding
28 of noncompliance, or (B) the presiding officer determines that the
29 contractor has adopted policies consistent with such statutes, provided
30 the presiding officer shall make such determination within forty-five
31 days of such finding of noncompliance; (3) publish, or cause to be
32 published, the names of contractors or unions that the presiding officer
33 has found to be in noncompliance with such provisions; (4) notify the
34 Attorney General that, in cases in which there is substantial [or
35 material] violation or the threat of substantial [or material] violation of
36 [the contractual provisions set forth in] section 4a-60 or 4a-60a,
37 appropriate proceedings should be brought to enforce such provisions,
38 including the enjoining [, within the limitations of applicable law,] of
39 organizations, individuals or groups [who] that prevent, [directly or
40 indirectly,] or seek to prevent, [directly or indirectly,] compliance with
41 [the provisions of] section 4a-60 or 4a-60a; (5) recommend to the Equal
42 Employment Opportunity Commission or the Department of Justice
43 that appropriate proceedings be instituted under Title VII of the Civil
44 Rights Act of 1964 [,] or related laws when necessary; (6) recommend
45 to the appropriate prosecuting authority that criminal proceedings be
46 brought for the furnishing of false information to any contracting
47 agency or to the commission; [as the case may be;] (7) order the

48 contractor to bring itself into compliance with antidiscrimination
49 statutes or contract provisions required under section 4a-60 or 4a-60a
50 or sections 46a-68c to 46a-68f, inclusive, within a period of thirty days
51 or, for good cause shown, within an additional period of thirty days,
52 and, if such contractor fails to bring itself into such compliance within
53 such time period and such noncompliance is substantial [or material]
54 or there is a pattern of noncompliance, recommend to the contracting
55 agency that such agency declare the contractor to be in breach of the
56 contract and that such agency pursue all available remedies; [or] (8)
57 order the contracting agency to refrain from entering into further
58 contracts, or extensions or other modifications of existing contracts,
59 with any noncomplying contractor, until such contractor has satisfied
60 the commission that such contractor has established and will carry out
61 personnel and employment policies in compliance with
62 antidiscrimination statutes and [the provisions of] section 4a-60 or 4a-
63 60a and sections 46a-68c to 46a-68f, inclusive; or (9) order two or more
64 remedies or other relief designed to achieve full compliance with
65 antidiscrimination statutes and required contract provisions. The
66 commission shall adopt regulations, in accordance with chapter 54, to
67 implement the provisions of this section.

68 Sec. 502. Subsection (d) of section 46a-56 of the general statutes is
69 repealed and the following is substituted in lieu thereof (*Effective*
70 *October 1, 2015*):

71 (d) If the commission determines, through its monitoring and
72 compliance procedures, [and after a complaint is filed and a hearing is
73 held pursuant to subsection (c) of this section,] that, with respect to a
74 state contract, a contractor, subcontractor, service provider or supplier
75 of materials has (1) fraudulently qualified as a minority business
76 enterprise, or (2) performed services or supplied materials on behalf of
77 another contractor, subcontractor, service provider or supplier of
78 materials knowing (A) that such other contractor, subcontractor,
79 service provider or supplier has fraudulently qualified as a minority
80 business enterprise in order to appear to comply with

81 antidiscrimination statutes or contract provisions required under
 82 section 4a-60 or 4a-60a, and (B) that such services or materials are to be
 83 used in connection with a contract entered into pursuant to subsection
 84 (b) of section 4a-60g, [the hearing officer or human rights referee before
 85 whom such hearing was held] the commission may issue a complaint
 86 pursuant to subsection (c) of section 46a-82. Such complaint shall be
 87 scheduled for a hearing before a referee assigned by the chief referee to
 88 act as a presiding officer. Such hearing shall be held in accordance with
 89 chapter 54 and section 46a-84. If, after such hearing, the presiding
 90 officer makes a finding that a contractor, subcontractor, service
 91 provider or supplier of materials has violated this subsection, the
 92 presiding officer shall assess a civil penalty of not more than ten
 93 thousand dollars upon such contractor, subcontractor, service provider
 94 or supplier of materials.

95 (e) The Attorney General, upon complaint of the commission, shall
 96 institute a civil action in the superior court for the judicial district of
 97 Hartford to recover [such] any penalty assessed pursuant to subsection
 98 (d) of this section. Any penalties recovered pursuant to this subsection
 99 shall be deposited in a special fund and shall be held by the State
 100 Treasurer separate and apart from all other moneys, funds and
 101 accounts. The resources in such fund shall, pursuant to regulations
 102 adopted by the commission in accordance with the provisions of
 103 chapter 54, be used to assist minority business enterprises. As used in
 104 this section, "minority business enterprise" means any contractor,
 105 subcontractor or supplier of materials fifty-one per cent or more of the
 106 capital stock, if any, or assets of which is owned by a person or
 107 persons: [(i)] (1) Who are active in the daily affairs of the enterprise;
 108 [(ii)] (2) who have the power to direct the management and policies of
 109 the enterprise; and [(iii)] (3) who are members of a minority, as defined
 110 in subsection (a) of section 32-9n. "

This act shall take effect as follows and shall amend the following sections:

Sec. 501	October 1, 2015	46a-56(c)
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Sec. 502	<i>October 1, 2015</i>	46a-56(d)
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